

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	No. 3:22-CR-99-KAC-JEM
BRIAN NOLBERT,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or recommendation as appropriate. This case is before the Court on Defendant Nolbert's Motion to Continue Trial and Deadlines [Doc. 42], filed on June 30, 2023.

Defendant asks the Court to continue the August 1, 2023 trial date and related deadlines. The Court appointed defense counsel to represent Defendant on June 12, 2023. Defense counsel received the initial discovery from Defendant's prior counsel that same day. The Government provided supplemental discovery on June 28, 2023. Defense counsel needs additional time to review the supplemental discovery with Defendant, research the issues involved, and conduct his own independent investigation so that he can properly advise Defendant. The right to a speedy trial has been explained to Defendant, who understands that the period of time between the filing of the motion and a rescheduled trial date would be fully excludable for speedy trial purposes. The Government does not oppose the requested continuance.

Based upon the information in Defendant's motion and because the Government does not oppose the continuance, the Court finds the ends of justice served by granting a continuance outweigh the interests of Defendant and the public in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). In making this determination, the Court has considered the factors set forth in 18 U.S.C. § 3161(h)(7)(B).

Specifically, the Court concludes that not granting a continuance would both result in a miscarriage of justice and deny counsel for Defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See id.* § 3161(h)(7)(B)(i)–(iv). Defense counsel was only recently appointed as substitute counsel for Defendant. Counsel needs additional time to review the discovery, including the supplemental discovery that was provided two days prior to the filing of the motion to continue, research and investigate the relevant issues, and advise his client. All of this cannot be done by the August 1, 2023 trial date.

The Court therefore **GRANTS** Defendant's Motion to Continue Trial and Deadlines [Doc. 42]. The trial of this case is reset to **November 7, 2023**. A new, comprehensive, trial schedule is included below. Because the Court has found that the ends of justice served by granting a continuance outweigh the interests of Defendant and the public in a speedy trial, all of the time between the filing of the motion on June 30, 2023, and the new trial date is fully excludable time under the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(1)(D), (h)(7)(A)–(B).

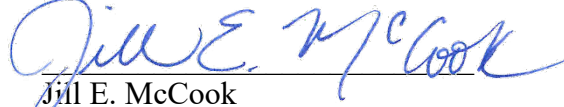
Accordingly, it is **ORDERED** as follows:

- (1) Defendant's Motion to Continue Trial and Deadlines [Doc. 42] is **GRANTED**;
- (2) the trial of this matter is reset to commence on **November 7, 2023, at 9:00 a.m.**, before the Honorable Katherine A. Crytzer, United States District Judge;
- (3) all time between the filing of the motion on **June 30, 2023**, and the new trial date of **November 7, 2023**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) the deadline for filing pretrial motions is extended to **August 4, 2023**, and responses to motions are due on or before **August 18, 2023**;
- (5) the deadline for filing a plea agreement in the record and providing reciprocal discovery is **October 6, 2023**;
- (6) the deadline for filing motions *in limine* is **October 23, 2023**;

- (7) the parties are to appear before the undersigned for a final pretrial conference on **October 24, 2023, at 1:30 p.m.**; and
- (8) requests for special jury instructions with appropriate citations to authority pursuant to Local Rule 7.4 shall be filed on or before **October 27, 2023.**

IT IS SO ORDERED.

ENTER:


Jill E. McCook
United States Magistrate Judge